SCANNED

MONTANA LEGISLATIVE HISTORY

Chapter 489 ~~19~~ 2003

Bill H _____ S 337 Original bill & history X C

↳ includes exhibits

H. Committee on BUSINESS & LABOR			S. Committee on BUSINESS & LABOR		
Hearing Date(s)	3/27	✓ C	Hearing Date(s)	2/14	✓ C
EXEC. ACTION	3/31	✓ C	EXEC. ACTION	2/19	✓ C
		C			C
		C			C
Date Out		C			

Did this bill originate in an interim committee? ____Yes X No

Committee _____ Report _____

LEGISLATIVE HISTORIES

The 1997 Montana Legislature dramatically changed the nature of legislative minutes. This altered format continues with the 1999 legislative minutes. The minutes from House committees are extremely sparse in content, offering no substantive information from which to glean legislative intent. The Senate committees' minutes are fuller in content.

Exhibits, which include written statements, attendent information, roll call votes, roll call attendance, a list of those from the public who were present, and specific action taken on legislative bills, will be available only through the Historical Society Archives, 444-4774, and from a CD-ROM produced by the Legislative Services Division, 444-3064.

Just as in the 1997 legislative session, the 1999 House and Senate committee hearings were recorded. For information on accessing the tapes, or purchasing them, contact the Archives, 444-4774.

If you have concerns over the format of these legislative minutes, it is suggested that you contact your state legislators.

Bill Draft Number: LC1247
Bill Type - Number: SB 337
Short Title: Revise liquor liability laws
Primary Sponsor: Joseph (Joe) Tropila

Bill Actions - **Current Bill Progress:** Became Law

Bill Action Count: 51

Action - Most Recent First	Date	Votes Yes	Votes No	Committee
Chapter Number Assigned	04/24/2003			
(S) Signed by Governor	04/24/2003			
(S) Transmitted to Governor	04/16/2003			
(H) Signed by Speaker	04/15/2003			
(S) Signed by President	04/15/2003			
(S) Returned from Enrolling	04/15/2003			
(C) Sent to Printing	04/14/2003			
(S) Sent to Enrolling	04/12/2003			
(S) 3rd Reading Passed as Amended by House	04/12/2003	46	3	
(S) Scheduled for 3rd Reading	04/12/2003			
(S) 2nd Reading House Amendments Concurred on Voice Vote	04/11/2003	47	0	
(S) Scheduled for 2nd Reading	04/11/2003			
(H) Returned to Senate with Amendments	04/05/2003			
(H) 3rd Reading Concurred	04/05/2003	74	24	
(H) Scheduled for 3rd Reading	04/05/2003			
(C) Sent to Printing	04/03/2003			
(H) 2nd Reading Concurred as Amended	04/03/2003	74	26	
(H) 2nd Reading Motion to Amend Carried	04/03/2003	98	1	
(H) Scheduled for 2nd Reading	04/03/2003			
(H) Committee Report--Bill Concurred	04/01/2003			(H) Business and Labor
(H) Committee Executive Action--Bill Concurred	03/31/2003	14	4	(H) Business and Labor
(H) Hearing	03/27/2003			(H) Business and Labor
(H) Referred to Committee	03/07/2003			(H) Business and Labor
(H) First Reading	03/07/2003			
(S) Transmitted to House	02/26/2003			
(S) 3rd Reading Passed	02/26/2003	46	4	

(S) Scheduled for 3rd Reading	02/26/2003			
(S) 2nd Reading Passed	02/25/2003	43	4	
(S) Scheduled for 2nd Reading	02/25/2003			
(S) 2nd Reading Passed Consideration	02/22/2003			
(S) Scheduled for 2nd Reading	02/22/2003			
(C) Sent to Printing	02/20/2003			
(S) Committee Report--Bill Passed as Amended	02/20/2003			(S) Business and Labor
(S) Committee Executive Action--Bill Passed as Amended	02/20/2003	9	0	(S) Business and Labor
(S) Hearing	02/14/2003			(S) Business and Labor
(C) Introduced Bill Text Available Electronically	02/05/2003			
(S) Referred to Committee	02/05/2003			(S) Business and Labor
(S) First Reading	02/05/2003			
(S) Introduced	02/05/2003			
(C) Draft Delivered to Requester	02/04/2003			
(C) Draft Ready for Delivery	02/04/2003			
(C) Draft in Assembly/Executive Director Review	02/03/2003			
(C) Draft in Final Drafter Review	02/03/2003			
(C) Bill Draft Text Available Electronically	02/03/2003			
(C) Draft in Input/Proofing	02/03/2003			
(C) Draft to Drafter - Edit Review [CMD]	02/03/2003			
(C) Draft in Edit	02/03/2003			
(C) Draft in Legal Review	01/31/2003			
(C) Draft to Requester for Review	01/31/2003			
(C) Draft On Hold	01/16/2003			
(C) Draft Request Received	12/04/2002			

Sponsor, etc.

Sponsor, etc.	Last Name/Organization	First Name	Mi
Requester	Tropila	Joseph (Joe)	
Drafter	Heiman	Lee	
Primary Sponsor	Tropila	Joseph (Joe)	

Subjects

Description	Revenue/Approp.	Vote Majority Req.	Subject Code
Alcohol and Drugs		Simple	ALC
Liability (see also: Remedies; Torts)		Simple	LIA

Additional Bill Information

Probable Fiscal Note: No
Preintroduction Required: N
Session Law Ch. Number: 489
DEADLINE
Category: General Bills
Transmittal Date: 02/28/2003
Return (with 2nd house amendments) Date: 04/05/2003

Section Effective Dates

Section(s)	Effective Date	Date Qualified
All Sections	01-OCT-03	

Senate BILL NO. 337

INTRODUCED BY Grosfield
(Primary Sponsor)

A BILL FOR AN ACT ENTITLED: "AN ACT REVISING THE CIVIL LIABILITY OF BUSINESSES AND SOCIAL HOSTS FOR INJURIES INVOLVING ALCOHOL CONSUMPTION; ESTABLISHING CRITERIA GOVERNING LIABILITY; PROVIDING THAT THE JURY OR TRIER OF FACT MAY CONSIDER THAT THE CONSUMPTION OF ALCOHOL RATHER THAN THE SALE OR SERVICE IS THE PROXIMATE CAUSE OF ANY INJURY OR DAMAGE; PROVIDING THAT NO CIVIL ACTION MAY BE BROUGHT BY THE PERSON CONSUMING THE ALCOHOLIC BEVERAGE UNLESS THE CONSUMER WAS A MINOR OR WAS COERCED; PROVIDING THAT A CIVIL ACTION MUST BE COMMENCED WITHIN 2 YEARS OF THE SERVICE; LIMITING NONECONOMIC AND PUNITIVE DAMAGES; ALLOWING CRIMINAL AND INTENTIONAL ACTS OF A PERSON CAUSING AN INJURY TO BE ADMITTED INTO EVIDENCE; AMENDING SECTION 27-1-710, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND AN APPLICABILITY DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 27-1-710, MCA, is amended to read:

"27-1-710. Civil liability for injuries involving alcohol consumption. (1) The purpose of this section is to set statutory criteria governing the liability of a person or entity that furnishes an alcoholic beverage for injury or damage arising from an event involving the person who consumed the beverage.

(2) Except as provided in 16-6-305, a person or entity furnishing an alcoholic beverage may not be found liable for injury or damage arising from an event involving the consumer wholly or partially on the basis of a provision or a violation of a provision of Title 16.

(3) Furnishing a person with an alcoholic beverage is not a cause of, or grounds for finding the furnishing person or entity liable for, injury or damage wholly or partly arising from an event involving the person who consumed the beverage unless:

(a) the consumer was under the legal drinking age and the furnishing person knew that the consumer was underage or did not make a reasonable attempt to determine the consumer's age;

(b) the consumer was visibly intoxicated; or

(c) the furnishing person forced or coerced the consumption or told the consumer that the beverage

contained no alcohol.

(4) A jury or trier of fact may consider that the consumption of an alcoholic beverage rather than the sale, service, or provision of the alcoholic beverage is the proximate cause of injuries or damages inflicted upon another by an intoxicated person.

(5) A civil action may not be brought pursuant to subsection (3) by the consumer or by the consumer's estate, legal guardian, or dependent, unless the person furnishing the alcohol:

(a) willfully and knowingly furnished the alcohol to the consumer and the consumer was under the age of 21 years; or

(b) the consumption was forced or coerced or the person furnishing the alcohol knowingly told the consumer that the beverage contained no alcohol.

(6) A civil action must be commenced pursuant to this section within 2 years after the sale or service.

(7) In any civil action brought pursuant to this section, the total liability for noneconomic or exemplary damages may not exceed $250,000.

(8) In any civil action brought pursuant to this section, the total liability for punitive damages may not exceed $250,000.

(9) Evidence of intentional or criminal activity by a person causing injury in connection with any event or injury commenced pursuant to this part is admissible in any action brought pursuant to this section."

NEW SECTION. **Section 2. Saving clause.** [This act] does not affect rights and duties that matured, penalties that were incurred, or proceedings that were begun before [the effective date of this act].

NEW SECTION. **Section 3. Severability.** If a part of [this act] is invalid, all valid parts that are severable from the invalid part remain in effect. If a part of [this act] is invalid in one or more of its applications, the part remains in effect in all valid applications that are severable from the invalid applications.

NEW SECTION. **Section 4. Effective date.** [This act] is effective on passage and approval.

NEW SECTION. **Section 5. Applicability.** [This act] applies to all proceedings begun after [the effective date of this act].

- END -

MINUTES

MONTANA SENATE
58th LEGISLATURE - REGULAR SESSION

COMMITTEE ON BUSINESS AND LABOR

Call to Order: By **CHAIRMAN DALE MAHLUM**, on February 14, 2003 at 9:01 A.M., in Room 422 Capitol.

ROLL CALL

Members Present:

Sen. Dale Mahlum, Chairman (R)
Sen. Mike Sprague, Vice Chairman (R)
Sen. Sherm Anderson (R)
Sen. Vicki Cocchiarella (D)
Sen. Kelly Gebhardt (R)
Sen. Ken (Kim) Hansen (D)
Sen. Sam Kitzenberg (R)
Sen. Glenn Roush (D)
Sen. Don Ryan (D)
Sen. Carolyn Squires (D)

Members Excused: Sen. Bob Keenan (R)
Sen. Fred Thomas (R)

Members Absent: None.

Staff Present: Sherrie Handel, Committee Secretary
Eddye McClure, Legislative Branch

Please Note. These are summary minutes. Testimony and discussion are paraphrased and condensed.

Committee Business Summary:

Hearing & Date Posted: SB 337, 2/5/2003; SB 331, 2/5/2003
Executive Action: SB 235

{Tape: 1; Side: A}

HEARING ON SB 337

Sponsor: **SENATOR JOE TROPILA, SD 24, NORTHWEST CASCADE COUNTY**

Proponents: **Mark Staples, Montana Tavern Association; Bill Johnston, Montana University System; Ralph Ferraro, Rocking R Bar in Bozeman; Jim McHugh, social host/event producer; Amy Sullivan, Montana Tourism Coalition; Kristi Blazer, Montana Beer and Wine Wholesalers Association; Glenn Mortenson, Town Tavern, Great Falls; John Hayes, Talbot Insurance Agency; Stuart Doggett, Montana Innkeepers Association; Jacqueline Lenmark, American Insurance Association; Aidan Myhre, Montana Chamber of Commerce; Bob Fletcher, Cannery Lodge and Liquor Barn**

Opponents: **Al Smith, Montana Trial Lawyers Association**

Opening Statement by Sponsor:

SENATOR JOE TROPILA, SD 24, NORTHWEST CASCADE COUNTY, brought before the committee an act revising the civil liability of businesses and social hosts for injuries involving alcohol consumption. **SEN. TROPILA** commented that he and his family have been in the liquor business for many years. Due to a growing number of things happening in the business that he was attempting to amend. SB 337 is a bill about responsibility. It professes an alcohol licensee's and social host's responsibility to the public and also the responsibility of adult customers and guests for their own behavior. It is also about juries and trials and being able to look at all factors in damage for injury cases and consider the behavior of both the host and the guest in assessing responsibility. Finally, it is about the timeliness of making a claim against someone so that recollections are reasonably intact and witnesses are still available. It's about rational limits to economic punishment beyond what is owed for real damages. "Dram Shop" is an old English term for a place where alcohol is served. For years, Dram Shops or bars were not liable under the law for the actions of their customers once they left the premises nor were social hosts liable for the actions of their guests once they left their property. Gradually, many courts, not legislatures, established so-called Dram Shop liability and social host liability so that licensees and hosts were held responsible for the actions of their patrons and guests, and persons injured by that patron or guest could sue the licensee or host for their damages. Though a number of states including

California, Georgia, and South Dakota have now gone back to the previous law where the bar or social host is not responsible for the drinker's actions, SB 337 does not go that far. It preserves the right of the innocent third party to sue the bar or social host, but it also states, as more states are now doing, that the drinker, be it a customer or a guest, can't sue the bar or host unless he or she was coerced into the drinking or he or she was a minor and the bar or host knew it or should have known it. And, with SB 337, the jury can look at the actions of the drinker after leaving the bar or the social event and may (not must) determine that the behavior was unforeseeable and that behavior, not the bar or social host, was the proximate cause of the third party's injury. This is patterned after Colorado law, and there are similar statutes in Idaho, Arizona, George, Kentucky, Missouri, South Dakota, and even California, which we all know is not exactly conservative. These laws have been upheld in those states, even by California's Supreme Court, which he again reminded the committee is hardly conservative. The two-year statute of limitations proposed in SB 337 gives plenty of time for plaintiffs to determine that they have been injured and find out where the person causing the accident was drinking. But it isn't so long a period that those accused are handicapped in trying to present a case with witnesses long gone or with memories eroded. Again, he said this is reasonable compared to other states. Of the 23 states with specific provisions for statute of limitations in their Dram Shop law, two are less than a year, three have one year statutes of limitations, 13 have the two year limitation the same he was proposing and four states have three year statutes of limitations. Finally, **SEN. TROPILA** said, this bill does not limit in any way actual damages that an innocent party may have. Many states have limited those damages, but this bill doesn't. What it does is set a reasonable ceiling on non-economic damages, such as punitive. That cap would be $250K, which ought to be enough to send any small Montana business a message. Three letters from proponents not present at the hearing were submitted by **SEN. TROPILA:** John R. Tooke, C.P.A., of Miles City, **EXHIBIT(bus33a01)**, Rick Flotkoetter, Texas Club owner in Miles City, **EXHIBIT(bus33a02)**, and Scott Tuxbury of Big Sky Underwriters, **EXHIBIT(bus33a03)**. **SEN. TROPILA** asked for the right to close.

Proponents' Testimony:

Mark Staples, Montana Tavern Association, discussed the balance necessary for the law to be fair and how the pendulum has swung too far in this area. He stated that **SEN. TROPILA'S** bill brings the pendulum back to the middle. **Mr. Staples** felt a good history had been given on other states and how they have handled this issue. The law of the land for years was that a person was

responsible for himself. That concept changed over the years by the courts in this country, but it is changing back in a number of jurisdictions. No matter how unforeseeable or bizarre the behavior of the drinking patron or unrelated to the actual serving of the drink in a bar, the law of Montana is now that because the bar has committed the misdemeanor crime of serving the visibly intoxicated patron, nothing else matters. That bar is responsible for anything that emanated from that action. A number of courts, including California, Idaho, Hawaii and others, have said the bar responsible at all. It's that person's fault. This bill doesn't go that far. It leaves the innocent third-party victim perfectly entitled to sue the bar or tavern, but the drinker can't unless he was coerced and that would be a jury decision or it was a minor and the bar should have known it was a minor. The innocent victims are kept in the loop, and all of their rights are preserved. On the other hand, **Mr. Staples** stated the drinker can't sue the bar unless coerced or a minor. The jury can, but doesn't have to, look at both the bar's behavior and the drinker's behavior. Then the jury can determine the approximate cause of the accident. **Mr. Staples** discussed how the process in these cases is to file a claim just a few days before the statute of limitation runs out, let the drunk person off cheaply, and then go after the bar owner. He said the bar owner has a whale of a time trying to reconstruct the facts. The servers are gone; the witnesses are gone. This bill asks for a two-year statute of limitations, which is still more than other states have on their books. Two years is not unreasonable. It gives both sides the opportunity to put their case together. **Mr. Staples** commented on the fact that a cap would be put, in this bill, on punitive damages only. While the bill would not allow unlimited punitive damages, it limits them and still sends a message to everyone not to do it again. Also, these cases can't even start unless the bar or social host coerces the visibly intoxicated to drink more or serves a minor.

Bill Johnston, Montana University System, said they support this bill for their foundation, alumni association and sports booster clubs. They are social hosts and feel it in their best interests to support the bill.

Ralph Ferraro, Rocking R Bar in Bozeman, shared that he has been through one of these lawsuits and it made it so cost prohibitive for him to purchase liquor liability insurance at all that he can't afford it and it has put a burden on him. After the lawsuit, it put such a heavy financial burden on him and his family, he almost sold the bar. He felt he was a target to the public. He said he would appreciate the committee considering this bill, because it's a good one.

Jim McHugh, social host and event producer, commented on skyrocketing prices for liquor liability insurance and that it is harder to continue producing their events. The events he produces are key fund raising tools for many programs. He offered his strong support of the bill.

Amy Sullivan, Montana Tourism Coalition, supported the legislation.

Kristi Blazer, Montana Beer and Wine Wholesalers Association, shared that, as a lawyer, she has represented both plaintiffs and defendants in dram shop cases and has watched this area of law develop. It started out as a judicial cause of action. The courts made the exception. This bill would put this issue back to where the law began. The law as it stands states the person doing the drinking and damage bears no responsibility. This bill also fits in with the wholesalers' platform of responsible consumption of their products and statement that individuals should not drive drunk and if you do, you should not be rewarded by being allowed to sue the host. On behalf of the association, she expressed their belief that SB 337 is a good bill and should be passed.

Glenn Mortenson, Town Tavern owner in Great Falls, shared his situation. In 1993, a car drove through his bar. It injured a person in the bar. The person who drove the car had been wheeled into the bar in a wheelchair by his sisters. He had been lifted out of the wheelchair and placed on a barstool and they had a pitcher of beer. After that, he was placed back in the wheelchair and into the bathroom by his sisters. They left him there, so someone else wheeled him out. He was again lifted out of the wheelchair and placed on the stool. At that point, he was mad and verbally abusive, so his sisters decided they wanted to go. They lifted him back off of the barstool and placed him in the wheelchair. They wheeled him out to the car and put him in the passenger side of the car. The sister's niece was the designated driver, but she decided she did not want to drive him home. She headed off down the street. He somehow pulled himself over on the driver's side of the car, started the car up, went through the wall of the bar, and injured a person inside the bar. One year later, in 1994, he pleaded guilty to two counts of intentional criminal negligence, meaning he meant to do what he did. He was sentenced to 20 years in prison. In 1996, **Mr. Mortenson** was served notice he was being sued by the person that was injured in the bar. Witnesses had moved or left the area. The discovery period was set up for 1997. He was unable to find a lot of the people who were "players" in the case. He said he had filed a third-party lawsuit, and the sisters had been bought off for ten bucks by the plaintiffs, so he could not approach

them. The daughter that was supposed to be the designated driver had supposedly gotten married and he could not locate her. The officer who took the statements the night this happened (nowhere in the statements was intoxication mentioned) had left the police force. He was told the officer had moved to New York; however, **Mr. Mortenson** could not locate him. When they went to trial in 1998, it could not be mentioned in front of the jury that this man had pleaded guilty to two counts of intentional criminal negligence. He was in a prison in Tennessee. The whole result was that he was in a court battle with his hands tied. They couldn't put on a case. They lost. The judgment was awarded to the plaintiff against **Mr. Mortenson** for $750K. He said that pretty much took him to his knees. He is trying to survive. He filed a Chapter 11 bankruptcy to try and preserve what sort of estate he had. That bankruptcy hindered his wife, who is in the insurance and securities business in getting her securities license. They got out of the Chapter 11 because all of his other bills were current, but he has this huge cloud hanging over him. He is continuing to pay on this judgment. He said his credit rating is shot because of the Chapter 11 filing. He's not sure how long he can survive this situation. SB 337 could have helped him greatly back then by allowing him to introduce all of the evidence. While it's too late for **Mr. Mortenson** now, it might help some other bar owners.

{Tape: 1; Side: B}

John Hayes, Talbot Insurance Agency, said he has been insuring bar owners and those in the entertainment industry for ten years. The average life of insurance companies doing business with bars and the entertainment industry in Montana is about a year and a half due to the laws. They experience claims in this arena and they're gone. Five years ago, approximately 12 companies were available in this field to sell insurance to bars; today, there are three. They're gone. During the past three years, he has written liquor liability policies totaling $982K in premiums. In the last six months, he has paid a total of $750K, which doesn't count any of the claims in the previous 2 1/2 years. He said they are upside down as far as the insurance carrier goes for the liquor liability. The first response by insurance companies is to leave the state. Then they talk about a 100 percent increase in premiums. He encouraged the committee to vote favorably on SD 337.

Stuart Doggett, Montana Innkeepers Association, said many of their members are full-service properties that have bars, restaurants or lounges in their facilities. They're appreciative of this common-sense bill and urged the committee to pass it.

Jacqueline Lenmark, American Insurance Association, commented on the excellent testimony already given on SB 337. They feel it is a balanced, common sense approach to the problem. She strongly urged the committee to give a DO PASS recommendation to it.

Aidan Myhre, Montana Chamber of Commerce, also rose in support of the bill. They thought it was a reasonable approach and places the liability where it belongs. It affects about 700 Montana businesses, who are very concerned about liability issues.

Bob Fletcher, Cannery Lounge and Burger Bob's in Bozeman, clarified the definition of liquor liability. He has not been able to carry liquor liability insurance for the past 15 years, because it would cost $15K per year to do so. He urged the committee to support the bill, because the small, independent businessmen need some help.

Opponents' Testimony:

Al Smith, Montana Trial Lawyers Association, listed reasons why his organization opposes the bill. He said the liquor business is a risky business. He went through each item of the bill and explained why those involved in serving alcohol should not be treated differently than other businesses in Montana and quoted from the Montana constitution with regard to the rights of individuals.

{Tape: 2; Side: A}

Mr. Smith discussed **Mr. Mortenson's** case and the fact that the committee was being asked to make a decision affecting all of Montana like the one made by a judge and jury after hours and hours of testimony. He also stated he doesn't think this issue is as black and white as it had been portrayed to the committee members.

Questions from Committee Members and Responses:

SEN. DON RYAN questioned **Mr. Staples** about the coercion and constitutional issues brought up by **Mr. Smith. Mr. Staples** answered he felt it strange that **Mr. Smith** would say juries should decide on the monetary compensation, but they shouldn't decide who is responsible. Plaintiffs and their attorneys know they are going to sue; business doesn't. If the statute of limitations continued to be set at three years, **Mr. Staples** suggested putting an 180-day notice provision in the law, which means the business could begin notifying and searching for witnesses and preparing for a possible trial. A jury should be able to decide if a bar patron was coerced into drinking. As far

as punitive damages go, it's a message. He questioned why it would take $10M in punitive damages to send a message.

Ms. Lenmark was asked by **SEN. MIKE SPRAGUE** if there is a direct correlation between rates and competition. She replied there would be a definite effect on insurability with this bill.

SEN. SPRAGUE went on to ask **Mr. Smith** about the burden of proof with the .08 or .10 level of intoxication. As far as this bill is concerned, the blood alcohol level is not allowed as evidence.

Mr. Staples was then questioned by **SEN. SPRAGUE** about the coercion as opposed to induced and asked for a legal definition. **Mr. Staples** explained that coercion is already in the statue. Happy Hour is to get them there; coercion is forcing them to drink.

SEN. VICKI COCCHIARELLA referred her question to **Bob Pavlovich, former House Representative and tavern owner from Butte.** Within the last year, there were two gentlemen drinking in the bar he used to own. One fellow came in, walked up to the other fellow, punched him and knocked him off of the stool. The gentleman who was punched decided he was going to sue the bar, because the bar served drinks to the gentleman who punched him. **Mr. Pavlovich's** former partner (owner of the bar) and the two bartenders present at the bar that night stated they did not serve the puncher any drinks that night. It came down to his word against theirs. They went to court to settle the issue, and the two fellows who fought walked out of the courtroom as buddies, which led **Mr. Pavlovich** to question whether or not this was a set up.

Mr. Staples was asked by **SEN. COCCHIARELLA** to go into the non-economic liability issue of the bill a little further when pain is addressed and what it means. **Mr. Staples** said actual damages include hospital and doctor, therapy, lost wages and so on. His example was a scar on the face of a previously attractive person as being damages which go beyond the actual damage payments. **SEN. COCCHIARELLA** wanted to know the difference between punitive and exemplary damages. **Mr. Staples** referred the question to **Mr. Smith**, who said in Montana, punitive and exemplary damages are the same thing.

SEN. COCCHIARELLA asked **Ms. Lenmark** to comment on the same question. She said in Montana, there is a statute that defines punitive damages and exemplary damages as the same thing and either term can be used. She felt **Mr. Smith** was correct when he commented that this language was borrowed from another jurisdiction. She suggested an improvement to the bill would be to clarify those terms. She thought the intent was to limit non-

economic damages to $250K and the punitive or exemplary damages to $250K. The other aspect of the non-economic damage portion of the bill she would dispute with **Mr. Smith** was about the examples of the disfigurement or the person with the legs severed. She said the committee needed to keep in mind that medical treatment available now can alleviate much of that disfigurement and can, perhaps, provide prostheses for a limb that was severed or any other medical condition that could be described. Those would be actual damages under future medical treatment when you are engaging in a lawsuit.

{Tape: 2; Side: B}

SEN. KELLY GEBHARDT addressed a problem he sees with the court system being unable to have a case heard in a reasonable period of time. He asked **SEN. TROPILA** if he would consider an amendment that would strike on line 26 of page 1 "less" and "a, b and c" and then on line 2 of page 2, strike "may" and put "must." **SEN. TROPILA** said he could get back to the committee before executive action was taken.

Closing by Sponsor:

SEN. TROPILA thanked all of the proponents for appearing. He discussed **Mr. Mortenson's** case and his struggle. He continued on to say this is not a lawyer's relief bill, but rather it is a businessman's protection bill. **SEN. TROPILA** pointed out that not everyone drinks at bars. They drink at private parties in homes, cocktail parties, at home, social functions, tailgate parties and at Chamber of Commerce events. However, bars get the bad name for it. They get chastised and are considered second-class citizens because they sell the liquor. Just because they sell the product does not mean that a person has to consume it. **Mr. Mortenson** had a perfectly good case; however, the three-year statute of limitations was what hurt him in his case. Memories eroded; people moved; it just isn't fair. There are 23 states with specific provisions for statute of limitations in their dram shop law. Two are less than a year. Three have one-year statutes of limitations. Thirteen have two-year limitations, the same being proposed in this bill. Four states have three-year statutes of limitations. This bill would not limit in any way actual damages that an innocent party may have. What it does is set a reasonable ceiling on non-economic damages so that punitive or exemplary damages could be capped at $250. In summary, he said the bill has four features. The drinker cannot sue the bar or social host unless he was coerced to drink or was a minor and the server knew it or should have known it. The jury can consider that the drinker's behavior may have been the approximate cause of the injured party's damages rather than the

server serving him the alcohol. Thirdly, the party alleging injury has two years to file action, and last, you can be awarded all the actual damages you can prove, but there is a $250K limit on the punitive damages.

HEARING ON SB 331

Sponsor: **SENATOR CAROLYN SQUIRES, SD 34, MISSOULA**

Proponents: **Kevin Braun, Department of Labor and Industry; Sami Butler, Montana Nurses Association**

Opponents: **Colleen White, attorney for Montana Department of Corrections**

Informational Witnesses: **Kim Powell, Board of Nursing**

Opening Statement by Sponsor:

SENATOR CAROLYN SQUIRES, SD 34, MISSOULA, was requested by the Board of Nursing to change some language regarding the composition of the board. The Board believes that the practice of nursing should not be defined based on whether or not one receives compensation. They also want to take out the portion that talks about the practice of unlicensed nursing. She discussed being notified late in the process that the Board of Nursing had an issue with nurses in correctional facilities and introduced an amendment requested by them, **EXHIBIT(bus33a04)** (SB033101.aem).

Proponents' Testimony:

Kevin Braun, Department of Labor and Industry, stood as a proponent on behalf of the Board of Nursing for SB 331.

{Tape: 3; Side: A}

He discussed various aspects of the bill and gave information to the committee, such as the gratuitous care of a friend or family member. A major provision regarding this bill deals with unprofessional versus unlicensed practice. The unprofessional issues revolve around whether a nurse has allowed her license to lapse. He discussed the amendment, which would strip the part that deals with correctional facilities or institutions and would allow an LPN to serve as a charge nurse. The Board of Nursing had agreed to the amendment. He said they will be looking at the situation over the next couple of years to address the situation in the next legislative session.

SENATE BUSINESS & INDUSTRY
EXHIBIT NO. 1
DATE 2/14/03
BILL NO. SB337

JOHN R. TOOKE
Certified Public Accountant

P. O. Box 1134
Miles City, Montana 59301

Phone: (406)232-6060
Fax: (406)232-7214

February 13, 2003

Chairman Dale Mahlum
Senate Business and Labor Committee
State Capitol
Helena, MT

Dear Senator Mahlum and Members of the Committee:

I urge your support for Senate Bill 337 to revise liquor liability laws. While it is imperative that we as tavern operators do our very best to ensure the safety of our customers and the public, some recent court cases have far exceeded reasonable foreseability, and have caused gross increases in our insurance premiums. We have had only a hail claim in the last ten years, yet our premiums increased from $3,900 in 2000 to $5,496 this past year. We expect another 15 percent increase at renewal in July 2003.

While increased premiums are a difficult problem, a larger looming problem is that many insurance companies will no longer write insurance for bars in Montana or have left the state altogether. The void of competing insurance companies is bad for tavern owners but it is also bad for all businesses.

I ask your support for Senate Bill 337 not only to help our industry but to help all business, by lending some sanity to the litigious environment that has evolved. Please return some reasonableness to the business community.

Thank you for your consideration.

Sincerely,

John R. Tooke

John R. Tooke, CPA & Tavern Owner

SENATE BUSINESS & INDUSTRY
EXHIBIT NO. 2
DATE 2/14/03
BILL NO. SB337

February 12, 2003

Dear Mark,

Recently during the month of December, I received a letter from my insurance company, USF&G, that my business's insurance coverage was being dropped. To my dismay, the reason given was uninsurability. Upon receiving this notice, I contacted my agent and was informed that this insurance company was pulling out of Montana because it was currently involved in two lawsuits within the state of Montana.

After some discussion with my agent, he advised me that it would be in my best interest to shop around for new coverage. Only being in this business for three years my insurance history has been very limited, however, I have not had any claims against my business or on my building so a dramatic increase in my premium was not what I expected. Last year my premium was $1700.00 so an increase of 40% was what I had budgeted.

I contacted no less than four agents searching for the best rate available. With six weeks left before my renewal date, I thought that I had plenty of time. When I didn't get a quote back within three weeks, I started calling the four agents back. To my surprise, the first quote was $6600.00, the second was $8000.00, the third was $4980, and the final quote was $5200.00. A 300% increase in premiums is a very hard expense for a small business to swallow, but unfortunately due to our exposure to liquor liability there is no other alternative than paying the astronomical increase.

The impending tax increases on gaming and liquor and rising insurance premiums leads me to believe that Montana is not a friendly climate for small or large businesses. Without some limitations put on gaming and liquor taxes and exposure to liability, it is going to force tavern owners such as myself to sell out and look for other means of supporting my family.

Thanks for all your consideration in this matter.

Sincerely

Rick Flotkoetter
Texas Club Owner
Miles City, MT

BIG SKY UNDERWRITERS

SENATE BUSINESS & INDUSTRY
EXHIBIT NO. 3
DATE 2/14/03
BILL NO. SB337

February 14, 2003

To: Senate Judiciary Committee

Re: Liquor Liability

Our business is to underwrite insurance coverages on behalf of insurance companies. We have been in this business since 1955. In the past 30 years, one of our primary areas of emphasis has been to provide liquor liability insurance for bars, taverns, restaurants and casinos.

In the mid to early 90's, there were a number of insurance carriers providing this coverage. Today, there are two. Obviously, it could easily become an availability problem at any time. Due to some judicial decisions, awards, and settlements, we have had 4 insurance companies discontinue this line of business (for Montana only). We cannot attract any new carriers given the current environment. This is not the case in the surrounding states.

Our concerns have been in the following areas;

1.) Judicial decisions that have been very punitive to insurance companies
2.) Failure to disallow "first party" claims against liquor establishments
3.) interpretation by insurance companies that courts are using a "strict liability" attitude in Montana, therefore diminishing any chance of defending a claim (ie, City Bar, Great Falls case)
4.) Skyrocketing awards—we have had 5-6 awards over $500,000, and we have some active files (3-4) that may likely go into that range.
5.) A statute of limitations that makes gathering the facts very difficult (it is hard to defend a claim when it comes in three years after the fact....the witnesses are hard to find, and facts difficult to sort out) . Idaho has a statute that is 6 months, due to this facts.

This is a brief wrap up of the concerns or ours, as well as the insurance companies that are providing these important coverages. I believe it is in everyones best interest to address this problem immediately. If we do not respond now, we will very likely find the industry without any insurance availability.

Sincerely;

Scott Tuxbury, CPCU
Big Sky Underwriters, Inc.

MINUTES

MONTANA SENATE
58th LEGISLATURE - REGULAR SESSION

COMMITTEE ON BUSINESS AND LABOR

Call to Order: By **VICE CHAIRMAN MIKE SPRAGUE**, on February 19, 2003 at 9:08 A.M., in Room 422 Capitol.

ROLL CALL

Members Present:

Sen. Dale Mahlum, Chairman (R)
Sen. Mike Sprague, Vice Chairman (R)
Sen. Sherm Anderson (R)
Sen. Vicki Cocchiarella (D)
Sen. Kelly Gebhardt (R)
Sen. Ken (Kim) Hansen (D)
Sen. Glenn Roush (D)
Sen. Don Ryan (D)
Sen. Carolyn Squires (D)

Members Excused: Sen. Bob Keenan (R)
Sen. Sam Kitzenberg (R)
Sen. Fred Thomas (R)

Members Absent: None.

Staff Present: Sherrie Handel, Committee Secretary
Eddye McClure, Legislative Branch

Please Note. These are summary minutes. Testimony and discussion are paraphrased and condensed.

Committee Business Summary:

Hearing & Date Posted: SB 377, 2/11/2003
Executive Action: SB 377; SB 268; SB 331; SB 337; SB 304; SB 342

{Tape: 1; Side: A}

of the bill which said it covers the spouse of a veteran disabled 100 percent who has not remarried.

VICE CHAIRMAN SPRAGUE asked **SENATOR MAHLUM** if he had considered less than 100 percent disabilities due to the fact that 100 percent disability is pretty hard to get. The sponsor did not and referred the question to **Mr. Jacobsen,** who stated it was only for those disabled 100 percent. Also, this bill would not apply to those with Purple Hearts unless they were 100 percent disabled. **Mr. Pavlovich** agreed.

Closing by Sponsor:

SEN. MAHLUM thanked the members of the committee for the good hearing.

EXECUTIVE ACTION ON SB 377

Motion/Vote: **SEN. COCCHIARELLA moved that SB 377 DO PASS. Motion carried 9-0.**

EXECUTIVE ACTION ON SB 268

Motion: **SEN. HANSEN moved that SB 268 AS AMENDED, EXHIBIT(bus37a01)** (SB026803.aem) **BE POSTPONED UNTIL FEBRUARY 28, 2003.** Vote: **Motion carried 9-0.**

EXECUTIVE ACTION ON SB 331

Motion/Vote: **SEN. SQUIRES moved that SB 331 DO PASS AS AMENDED, EXHIBIT(bus37a02)** (SB033101.aem)**. Motion carried 9-0.**

EXECUTIVE ACTION ON SB 337

Discussion: **After discussing an amendment brought forth by SEN. COCCHIARELLA, EXHIBIT(bus37a03), AND SEN. ROUSH, EXHIBIT(bus37a04), IT WAS DECIDED TO COMBINE THE TWO AMENDMENTS INTO ONE.**

{Tape: 1; Side: B}

Motion/Vote: SEN. SPRAGUE moved that SB 337 DO PASS AS AMENDED, EXHIBIT(bus37a05) (SB033703.aem). Vote: Motion carried 9-0.

EXECUTIVE ACTION ON SB 304

Motion/Vote: SEN. COCCHIARELLA moved that SB 304 DO PASS AS AMENDED, EXHIBIT(bus37a06) (SB030401.aem). Motion carried 9-0.

{Tape: 2; Side: A}

EXECUTIVE ACTION ON SB 342

Motion/Vote: SEN. GEBHARDT moved that SB 342 BE INDEFINITELY POSTPONED. Motion carried 7-5 with COCCHIARELLA, HANSEN, ROUSH, RYAN AND SQUIRES voting no.

SENATE BUSINESS & INDUSTRY
EXHIBIT NO. 3
DATE 2/19/03
BILL NO. SB337

Amendments to Senate Bill No. 337
1st Reading Copy

Requested by Senator Vicki Cocchiarella

For the Senate Business and Labor Committee

Prepared by Eddye McClure
February 19, 2003 (5:32am)

1. Page 2, line 12.
Strike: "or exemplary"

- END -

SENATE BUSINESS & INDUSTRY
EXHIBIT NO. 4
DATE 2/19/03
BILL NO. SB 337

Amendments to Senate Bill No. 337
1st Reading Copy

Requested by Senator Glenn Roush

For the Senate Business and Labor Committee

Prepared by Eddye McClure
February 19, 2003 (11:01am)

1. Page 2, line 11.
Following: "A"
Insert: "civil action may not be commenced under this section against a person who furnished alcohol unless the person bringing the civil action provides notice of an intent to file the action to the person who furnished the alcohol by certified mail within 180 days from the date of sale or service. The"

- END -

SENATE BUSINESS & INDUSTRY
EXHIBIT NO. 5
DATE 2-19-03
BILL NO. SB337

Amendments to Senate Bill No. 337
1st Reading Copy

Requested by Senator Glenn Roush

For the Senate Business and Labor Committee

Prepared by Eddye McClure
February 19, 2003 (11:03am)

1. Page 2, line 11.
Following: "A"
Insert: "civil action may not be commenced under this section against a person who furnished alcohol unless the person bringing the civil action provides notice of an intent to file the action to the person who furnished the alcohol by certified mail within 180 days from the date of sale or service. The"

2. Page 2, line 12.
Strike: "or exemplary"

- END -

MINUTES

MONTANA HOUSE OF REPRESENTATIVES
58th LEGISLATURE - REGULAR SESSION

COMMITTEE ON BUSINESS AND LABOR

Call to Order: By **CHAIRMAN JOE MCKENNEY**, on March 27, 2003 at 8:00 A.M., in Room 172 Capitol.

ROLL CALL

Members Present:

Rep. Joe McKenney, Chairman (R)
Rep. Jim Keane, Vice Chairman (D)
Rep. Donald Steinbeisser, Vice Chairman (R)
Rep. Bob Bergren (D)
Rep. Rod Bitney (R)
Rep. Sylvia Bookout-Reinicke (R)
Rep. Nancy Fritz (D)
Rep. Dave Gallik (D)
Rep. Kathleen Galvin-Halcro (D)
Rep. Ray Hawk (R)
Rep. Bob Lawson (R)
Rep. Rick Maedje (R)
Rep. Gary Matthews (D)
Rep. Scott Mendenhall (R)
Rep. Penny Morgan (R)
Rep. Allen Rome (R)
Rep. Sandy Weiss (D)
Rep. Bill Wilson (D)

Members Excused: None.

Members Absent: None.

Staff Present: Bart Campbell, Legislative Branch
Alberta Strachan, Committee Secretary

Please Note. These are summary minutes. Testimony and discussion are paraphrased and condensed.

Committee Business Summary:

Hearing & Date Posted: SB 337 (3/14/03); SB 334 (3/14/03); SB 152 (3/14/03)

Executive Action: SB 334 Be Concurred In; SB 152 Be Concurred In As Amended; SB 101 Be Concurred In; SB 232 Be Concurred In; SB 431 Tabled; SB 270 Be Concurred In As Amended

HEARING ON SB 337

Sponsor: SEN. JOE TROPILA, SD 24, Great Falls

Opening Statement by Sponsor:

SEN. TROPILA said this bill revises the civil liability of businesses and social hosts for injuries involving alcohol consumption. It establishes criteria governing liability and provides that the jury or trier of fact may consider that the consumption of alcohol rather than the sale or service is the proximate cause of any injury of damage. This bill also provided that no civil action may be brought by the person consuming the alcoholic beverage unless the consumer was a minor or was coerced. It provided that a civil action must be commenced within 2 years of the service limiting non-economic and punitive damages and allowed criminal and intentional acts of the person causing an injury to be admitted into evidence.
{Tape: 1; Side: A; Approx. Time Counter: 22 - 64}

Proponents' Testimony:

Bob Pavlovich, Butte resident, told of an incident in his bar in Butte which resulted in injury of a person and the length of time incurred to solve the problem and the amount of punitive damages which have incurred to date.
{Tape: 1; Side: A; Approx. Time Counter: 64 - 87}

Mark Staples, Montana Tavern Association, said the state is one sided in regard to alcohol liability. Because of lawsuits and outcomes of the lawsuits, there is now legislation whereby any person serving alcohol to another person who appears to be intoxicated is liable for the actions of the intoxicated person.
{Tape: 1; Side: A; Approx. Time Counter: 87 - 174}

Cathy Burwell, President, Helena Chamber of Commerce, said this legislation indicated a person should take responsibility for their actions. This is an important piece of legislation.
{Tape: 1; Side: A; Approx. Time Counter: 174 - 182}

Aidan Myhre, Montana Chamber of Commerce, said this was an important piece of legislation and they supported it.
{Tape: 1; Side: A; Approx. Time Counter: 182 - 190}

Sue Weingartner, Helena resident, said in her business they host many conventions, conferences and social events. They are very well aware of the risks and the exposure to liability that exists now under current law.
{Tape: 1; Side: A; Approx. Time Counter: 190 - 200}

Jim McCue, Downtown Helena, Inc., said they produce over 20 programs in which they utilize special-use programs. They supported this bill.
{Tape: 1; Side: A; Approx. Time Counter: 200 - 208}

Ralph Harroro, Rocky Mountain Bar, Butte, said he supported this bill because it will make it easier for tavern owners to purchase liquor liability.
{Tape: 1; Side: A; Approx. Time Counter: 208 - 220}

Bob Fletcher, Burger Bobs, Bozeman, said the price of liquor liability insurance is so expensive it is difficult to run a business that serves alcohol.
{Tape: 1; Side: A; Approx. Time Counter: 220 - 227}

John Hayes, Great Falls insurance agent, said the scope of his insurance practice is the tavern industry. They have been contemplating some programs to try to acquire carriers in the State of Montana to specialize in just the bar and tavern industry. There is no competition in this type of coverage. Five years ago there were twelve companies doing business on this coverage and now there are two.
{Tape: 1; Side: A; Approx. Time Counter: 227 - 264}

Glen Mortensen, Town Tavern, Great Falls, told of an incident in his establishment. He supported this bill.
{Tape: 1; Side: A; Approx. Time Counter: 264 - 360}

Riley Johnson, National Federation of Independent Businesses, said they supported this bill.
{Tape: 1; Side: A; Approx. Time Counter: 360 - 365}

Jacqueline Lenmark, American Insurance Association, said the cost of this insurance and its availability will be more cost effective to clients. The bill in no way limits the damages that an individual is awarded. The damages they are awarded for their

medical expenses, loss of wages and loss of income are the type of damages which are covered in this bill.
{Tape: 1; Side: A; Approx. Time Counter: 368 - 412}

Bill Johnson, Montana University System, said they supported this bill. They sponsor special events and the University System is concerned about liability issues.
{Tape: 1; Side: A; Approx. Time Counter: 412 - 420}

Opponents' Testimony:

Al Smith, Montana Trial Lawyers Association, said this legislation needed amendments. He said some of the driving-under-the-influence bills have no primary defense. Everyone knows serving alcohol is a risky business. There are potential dangers that lie out there. Businesses that serve alcohol have a high percent of liability. He then reviewed the changes in the bill.
{Tape: 1; Side: A; Approx. Time Counter: 420 - Tape: 1, Side: B; Approx. Time Counter: 108}

Informational Testimony:

Mike Barrett, Helena resident, supplied informational testimony.
{Tape: 1; Side: B; Approx. Time Counter: 108 - 136}

Questions from Committee Members and Responses:

REP. WEISS asked SEN. TROPILA about the $250,000 for punitive damages for someone permanently injured for life because of an accident following an event. **SEN. TROPILA** said he did not know how to answer the question.
{Tape: 1; Side: B; Approx. Time Counter: 136 - 165}

REP. MAEDJE asked Mr. Staples if there should be more specific language regarding damages in the bill. **Mr. Staples** said he did not object to an amendment dealing with this.
{Tape: 1; Side: B; Approx. Time Counter: 165 - 210}

REP. WILSON asked Mr. Hayes about policy insurance limits. **Mr. Hayes** said there was a $1 million limit on policies.
{Tape: 1; Side: B; Approx. Time Counter: 210 - 240}

REP. MENDENHALL asked Mr. Hayes about the percentage of gross sales spent in comparison to other industries. **Mr. Hayes** said on the property casualty side, the average cost of insurance is about 1/2 of 1% or 30% of their gross sales.
{Tape: 1; Side: B; Approx. Time Counter: 240 - 268}

REP. GALVIN-HALCRO asked Mr. Staples about inserting the word "determining" on page 1, line 3 as an amendment. **Mr. Staples** said, "No."
{Tape: 1; Side: B; Approx. Time Counter: 268 - 315}

Closing by Sponsor:

The Sponsor closed.
{Tape: 1; Side: B; Approx. Time Counter: 315 - 392}

HEARING ON HB 334

Sponsor: **SEN. MIKE SPRAGUE, SD 6, Billings**

Opening Statement by Sponsor:

SEN. SPRAGUE said this bill increases the number of representatives who may be hired by a vendor promoting the vendor's product in the state. It requires that a vacancy in the one required representative position be filled within 60 days. He also presented a chart indicating the liquor distribution system in Montana.
EXHIBIT(buh65a01)
{Tape: 1; Side: B; Approx. Time Counter: 400 - 432}

Proponents' Testimony:

Margaret Morgan, Distilled Spirits Council of the United States, explained the chart which SEN. SPRAGUE provided for the Committee.
{Tape: 1; Side: B; Approx. Time Counter: 432 - 512}

Bob Pavlovich, representing himself, said he supports the bill.
{Tape: 1; Side: B; Approx. Time Counter: 512 - 515}

Bob Lemm, Golden Triangle, Cascade County, said he supports this bill.
{Tape: 2; Side: A; Approx. Time Counter: 1 - 15}

SEN. JOE TROPILA, SD 24, Great Falls, said he supports the bill.
{Tape: 2; Side: A; Approx. Time Counter: 15 - 22}

Opponents' Testimony: None

HOUSE OF REPRESENTATIVES
Roll Call
BUSINESS AND LABOR COMMITTEE

DATE 3-27-03

NAME	PRESENT	ABSENT	EXCUSED
REP. JOE McKENNEY, CHAIR.	✓		
REP. DON STEINBEISSER, VICE CHAIR MAJORITY	✓		
REP. JIM KEANE, VICE CHAIR MINORITY	✓		
REP. BOB BERGREN	✓		
REP. ROD BITNEY	✓		
REP. SYLVIA BOOKOUT-REINICKE	✓		
REP. NANCY RICE FRITZ	✓		
REP. DAVE GALLIK	✓		
REP. KATHLEEN GALVIN-HALCRO	✓		
REP. RAY HAWK	✓		
REP. BOB LAWSON	✓		
REP. RICK MAEDJE	✓		
REP. GARY MATTHEWS	✓		
REP. SCOTT MENDENHALL	✓		
REP. PENNY MORGAN	✓		
REP. ALLEN ROME	✓		
REP. SANDY WEISS	✓		
REP. BILL WILSON	✓		

/s/Bus&LaborRollCall.2003

Montana House of Representatives
Visitors Register

BUSINESS & LABOR COMMITTEE Date 3-27-03

Bill No. HB 337 Sponsor(s)_____

PLEASE PRINT PLEASE PRINT PLEASE PRINT

Name and Address	Representing	Support	Oppose	Inf.
Bob Vanovich	Self	X		
Steve Hayes	Talbot	X		
Gabriel Mathiesen	Rep. Bruski	X		
Sue Weingartner	Self	X		
Kristi Blazer	MT Benefits Ass.	X		

Please leave prepared testimony with Secretary. Witness Statement forms are available if you care to submit written testimony.

HOUSE OF REPRESENTATIVES
Business & Labor Committee

WITNESS STATEMENT

PLEASE PRINT

NAME SB 337 BUDGET _____

ADDRESS _____ DATE _____

WHOM DO YOU REPRESENT? _____

SUPPORT: _____ OPPOSE _____ AMEND _____

COMMENTS:

Cathy Burwell	Helena Chamber	Support
Bill Johnston	Mont. Univ. System	Support
Riley Johnson	NFIB	Support
Aidan Myhre	MT Chamber	Support
Dian McHugh	Downtown Helena	Support

MINUTES

MONTANA HOUSE OF REPRESENTATIVES
58th LEGISLATURE - REGULAR SESSION

COMMITTEE ON BUSINESS AND LABOR

Call to Order: By **CHAIRMAN JOE MCKENNEY**, on March 31, 2003 at 10:00 A.M., in Room 172 Capitol.

ROLL CALL

Members Present:

Rep. Joe McKenney, Chairman (R)
Rep. Jim Keane, Vice Chairman (D)
Rep. Donald Steinbeisser, Vice Chairman (R)
Rep. Bob Bergren (D)
Rep. Rod Bitney (R)
Rep. Sylvia Bookout-Reinicke (R)
Rep. Nancy Fritz (D)
Rep. Dave Gallik (D)
Rep. Kathleen Galvin-Halcro (D)
Rep. Ray Hawk (R)
Rep. Bob Lawson (R)
Rep. Rick Maedje (R)
Rep. Gary Matthews (D)
Rep. Scott Mendenhall (R)
Rep. Penny Morgan (R)
Rep. Allen Rome (R)
Rep. Sandy Weiss (D)
Rep. Bill Wilson (D)

Members Excused: None.

Members Absent: None.

Staff Present: Bart Campbell, Legislative Branch
Alberta Strachan, Committee Secretary

Please Note. These are summary minutes. Testimony and discussion are paraphrased and condensed.

Committee Business Summary:

Hearing & Date Posted: SB 444 (3/27/2003); SB 349 (3/27/03)
Executive Action: SB 337 Be Concurred In; SB 46 Table

Closing by Sponsor:

The Sponsor closed.
{Tape: 2; Side: A; Approx. Time Counter: 108 - 203}

EXECUTIVE ACTION ON SB 337

{Tape: 2; Side: A; Approx. Time Counter: 245 - 500}

Motion: **REP. MAEDJE moved that SB 337 BE CONCURRED IN.**

Discussion:

CHAIRMAN McKENNEY said he supports this bill.

Mr. Campbell said he would prepare a conceptual amendment for this bill.

REP. GALVIN-HALCRO said she opposes this bill.

Vote: **Motion carried 14-4 with REPS. WEISS, WILSON, GALVIN-HALCRO, GALLIK voting no.**

EXECUTIVE ACTION ON SB 46

Motion: **REP. GALVIN-HALCRO moved that SB 46 BE CONCURRED IN.**

Motion: **REP. MENDENHALL moved that SB 46 BE AMENDED.**
EXHIBIT(buh68a08)

Discussion:

REP. MENDENHALL explained the amendments.

REP. MORGAN asked REP. MENDENHALL what the opinion was of the counties and contractors regarding the amendments. **REP. MENDENHALL** said the county commissioners did not oppose the first amendment. The contractors were very much in favor of the first amendment; and they prefer not adopting the second amendment.

REP. GALVIN-HALCRO said the current language should stand in the bill.

REP. KEANE said he agreed with REP. GALVIN-HALCRO.

REP. BOOKOUT-REINICKE suggested segregating the amendments.

HOUSE OF REPRESENTATIVES
Roll Call
BUSINESS AND LABOR COMMITTEE

DATE 3-31-03

NAME	PRESENT	ABSENT	EXCUSED
REP. JOE McKENNEY, CHAIR.	✓		
REP. DON STEINBEISSER, VICE CHAIR MAJORITY	✓		
REP. JIM KEANE, VICE CHAIR MINORITY	✓		
REP. BOB BERGREN	✓		
REP. ROD BITNEY	✓		
REP. SYLVIA BOOKOUT-REINICKE	✓		
REP. NANCY RICE FRITZ	✓		
REP. DAVE GALLIK	✓		
REP. KATHLEEN GALVIN-HALCRO	✓		
REP. RAY HAWK	✓		
REP. BOB LAWSON	✓		
REP. RICK MAEDJE	✓		
REP. GARY MATTHEWS	✓		
REP. SCOTT MENDENHALL	✓		
REP. PENNY MORGAN	✓		
REP. ALLEN ROME	✓		
REP. SANDY WEISS	✓		
REP. BILL WILSON	✓		

/s/Bus&LaborRollCall.2003

HOUSE STANDING COMMITTEE REPORT

March 31, 2003

Mr. Speaker:

We, your committee on **Business and Labor** recommend that **Senate Bill 337** (third reading copy -- blue) **be concurred in**.

Signed: _____
Representative ~~Joe McKenney~~, Chair
GARY MATTHEWS

To be carried by Representative Joe McKenney

- END -

Committee Vote:
Yes 14, No 4.

M. Peterson
3/31 3:15 pm
681408SC.hhn